



January 30, 2007

ELECTRONICALLY FILED

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ex Parte Notice

Re: Petition of BellSouth Telecommunications, Inc. For Forbearance
Under 47 U.S.C. § 160 From Enforcement of Certain of the
Commission's Cost Assignment Rules - WC Docket No. 05-342

Dear Ms. Dortch:

Yesterday the undersigned and Susan M. Gately, on behalf of the AdHoc Telecommunications Users Committee, Karen Reidy, on behalf of COMPTTEL, Anna Gomez and Chris Frentrup, on behalf of Sprint/Nextel, and Jonathan Lechter, on behalf of Time Warner Telecom met with John Hunter, Commissioner McDowell's Senior advisor, regarding the above-referenced matter. The attachment hereto reflects the matters discussed at the meeting.



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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James S. Blaszk', written in a cursive style.

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Cc: John Hunter, Senior Legal Advisor to Commissioner McDowell



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**BellSouth Petition for
Forbearance from Cost Allocation Rules
(WC Docket No. 05-342)**

- If BellSouth's Petition were granted, or were deemed granted, on March 6, 2007, BellSouth would be free to price gouge for switched and special access services.
 - Merger conditions prevent some special access price increases for a limited time, but the data that have revealed existing price gouging and that could disclose future profit margins would not be available.
 - Earnings from interstate *switched* access would also be undetectable publicly available data.
 - Market forces will not prevent price gouging.
 - GAO has confirmed that in many instances competitive alternatives for special access do not exist.
 - Data in this docket and other Commission proceedings are consistent with GAO's findings.
 - Buyers of switched access cannot use market forces to control pricing. The Commission has recognized the market failure and has never suggested deregulating switched access charges.
- Price caps regulation does not eliminate the need for Commission mandated cost allocations.
 - Without properly allocated revenue and cost data, the Commission cannot know whether its price caps prescriptions are properly specified, i.e., whether they are producing a competitive result.
 - Elimination of the sharing requirement does not equate to Commission approval of price gouging.
 - In 2001 the Commission retained cost reporting requirements, and in 2004 convened a Federal-State Joint Conference on Accounting issues to review the requirements that BellSouth seeks to eliminate.
 - Grant of Bellsouth's' petition would violate section 254(k) of the Act
 - Exogenous costs
 - Non-RLEC USF subsidies



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- Elimination of cost and revenue allocations would allow unfettered cross-subsidizations.
 - The Commission recognized in 2001 that, “[p]ayments from other carriers may enable a carrier to offer service to its customers at rates that bear little relationship to its actual costs, thereby gaining an advantage over its competitors.” *ISP Remand Order*, 16 FCC Rcd 9151, para. 68 (2001)
 - In its opposition to the Missoula Plan, Verizon recognizes that cross-subsidization disadvantages competitors and hurts consumers.
- Digital networks do not preclude rational cost allocations. Neither analog nor digital carrier networks are single use/service networks.